



## 1. Closing Loopholes is a Matter of Fairness and Shared Responsibility

- **All taxpayers, including business, share interest in the services provided by government:** affordable housing, education (pre-k through higher ed), transportation, and other infrastructure needs.
- **Massachusetts' business tax burden is among the lowest in the country: Massachusetts is 40<sup>th</sup> in the nation for business taxes** as a percent of private sector gross state product (*source: Total State and Local Business Taxes, Ernst & Young, February 2007*)
  - Of 15 states identified as posing the greatest competition to Massachusetts for business, **only two have lower business tax burdens**

## 2. Closing Loopholes is not Antibusiness

- Massachusetts has an Antiquated Tax Code. Every year, tax planners find more legal ways to shelter business income from taxation, shifting the burden of taxes away from business.
  - Tax code needs periodic reexamination to maintain fairness of tax burden
- Governor Patrick's proposals focus on true "loopholes"
  - **Loopholes:** benefits that **were never intentionally conferred by the state Legislature.**
- Closing the corporate tax loopholes, as well as the telecom industry property tax exemption, increases the tax burden on Massachusetts businesses by 4.3% (E&Y estimated FY06 business taxes = \$13.1 billion plus \$557 million). Even then, the total tax burden on Massachusetts' business would still rank 40<sup>th</sup> in the country.
  - Closing the tax loopholes affects only a small fraction of the corporations filing Massachusetts tax returns.
- Businesses locate in Massachusetts either to sell goods or to take advantage of a skilled workforce.
  - Largest impact of loophole closures will be borne by out of state businesses here to sell to Massachusetts residents
  - Massachusetts tax code currently has the necessary tools to attract businesses that aim to employ our residents (i.e.: Single Sales Factor and the Research & Development Credit)
- Massachusetts Office of Business Development has over 350 businesses on its target list. Not one has identified closing these loopholes as an impediment to locating in Massachusetts.
- None of the following proposals vest broad discretionary powers with the commissioner of revenue. Instead, they are based on best practices from other states that have successfully implemented these tax changes.
  - 17 states have adopted combined reporting and six others have proposed it.
  - 45 states have adopted "check the box."

## 3. The Seven Loophole Closing Reforms

- **Combined Reporting.** This provision curbs the practice of businesses shifting income to out-of-state subsidiaries and avoiding Massachusetts taxes. Currently 17 states employ combined reporting, and six other states have proposed it (Pennsylvania, N. Carolina, Iowa, Michigan, New York, and W. Virginia).
  - FY08 tax revenue: \$136 million
  - FY09 tax revenue: \$226 million
- **"Check the Box:" Conform Entity Classification Rules to Federal Laws; Tax Business Trusts as Corporations.** "Check the Box" prevents a business from claiming corporate status for its federal (and other states') taxes but not for Massachusetts taxes. In Massachusetts, "Business Trusts" are taxed at personal rates instead of corporate rates. Forty-five other states have adopted this provision.
  - FY08 tax revenue: \$99 million
  - FY09 tax revenue: \$169 million



- **Insurance Companies Operating Non-Insurance Business.** Currently, an insurance company is taxed on premiums and not subject to tax on non-insurance revenue. Under this provision, non-insurance businesses run by insurance companies would be subject to the standard corporate tax.

- FY08 tax revenue: \$14 million
- FY09 tax revenue: \$23 million

- **Deeds Excise Avoidance.** Massachusetts currently imposes a real estate transfer tax when real property is sold. This initiative will prevent corporate taxpayers from placing the real estate in a subsidiary business entity (such as a limited liability corporation) and selling the interest in that entity rather than the underlying real estate.

- FY08 tax revenue: \$8 million
- FY09 tax revenue: \$20 million

- **Room Occupancy Tax; Internet Resellers.** Hotel and motel rooms are subject to a state, and in some cases, a local option tax. Internet retail agents avoid paying the hotel/motel tax on the full price of the room as charged to the consumer. Although the consumer pays tax on the higher, retail price, the state only receives the amount on the lower, wholesale price.

- FY08 tax revenue: \$8 million (\$4 million for state's benefit, \$1 million for convention center fund, \$3 million for the municipalities)
- FY09 tax revenue: \$19 million (\$10 million for state's benefit, \$2 million for convention center fund, \$7 million for the municipalities)

- **Sales Tax; Captive Leasing Companies.** Large, capital-intensive businesses can avoid paying full, upfront sales tax by leasing equipment from a subsidiary affiliate.

- FY08 tax revenue: \$13 million
- FY09 tax revenue: \$30 million

- **Income Tax; Earned Income Credit for Non-Residents.** Massachusetts has a refundable earned income credit that is 15% of the available federal credit. This provision would require the credit recipient to live or work in Massachusetts, and only the percentage of income earned in Massachusetts would be subject to the credit.

- FY08 tax revenue: \$2 million
- FY09 tax revenue: \$2 million

